

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MOHAMMAD SAAILI SHIBIN,)
a/k/a "Khalif Ahmed Shibin,")
a/k/a "Mohammad Ali,")
a/k/a "Ali Jama,")
)
Defendant.)

CRIMINAL CASE NO.
2:11cr33

TRANSCRIPT OF PROCEEDINGS
(**Rebuttal testimony of Kevin Coughlin**)

Norfolk, Virginia
April 26, 2012

BEFORE: THE HONORABLE ROBERT G. DOUMAR,
United States District Judge, and a jury

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
By: Joseph E. DePadilla, Esquire
Benjamin L. Hatch, Esquire
Brian J. Samuels, Esquire
Paul Casey, Esquire
Assistant United States Attorneys
Counsel for the United States

ZOBY & BROCCOLETTI, P.C.
By: James O. Broccoletti, Esquire
Counsel for the Defendant

I N D E X

ON BEHALF OF THE GOVERNMENT:	Direct	Cross	Red.	Rec.
K. Coughlin	4	9	15	--

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(None)	

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THE COURT: All right. Do you have any rebuttal evidence, Mr. --

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MR. SAMUELS: Yes, we do, Your Honor. The United States would call Special Agent Kevin Coughlin.

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MR. BROCCOLETTI: Your Honor, may we have a side bar, please?

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THE COURT: Yes.

(The following was heard at the sidebar out the hearing of the jury:)

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MR. BROCCOLETTI: Judge, I'm going to be objecting to Agent Coughlin testifying unless he can speak Somalian. I mean, everything that goes to this man is through an interpreter. The interpreter tells Coughlin, and he writes it down. So unless he can understand Somalian he can't say what this man told him. It all comes through the interpreter.

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THE COURT: I'll allow you to cross-examine Mr. Coughlin, and I'll allow you to bring that out. Otherwise, we always have a problem.

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I'm going to allow him to testify this way. You make your argument accordingly. I think it's a good argument, and you may be able to convince the jury of it, all right?

—K. Coughlin (Rebuttal) - Direct—

1 MR. BROCCOLETTI: Yes, sir.

2 THE COURT: All right.

3 MR. SAMUELS: Thank you, Judge.

4 THE COURT: The objection is overruled.

5 (The proceedings resumed in open court as follows:)

6 THE COURT: You're reminded, sir, you're still under
7 oath.

8 KEVIN COUGHLIN, recalled as a rebuttal witness,
9 having been previously duly sworn, testified further as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. SAMUELS:

13 Q. Agent Coughlin, good afternoon.

14 A. Good afternoon.

15 Q. Would you tell us your full name again, please, sir?

16 A. My name is Kevin Coughlin.

17 Q. And, Agent Coughlin, as one of the case agents in this
18 matter did you go out to the Enterprise in February of 2011
19 to conduct interviews of those individuals who had been
20 detained in connection with the Quest hijacking?

21 A. Yes, I did.

22 Q. And were there a number of interviews conducted of
23 Mohamud Salad Ali, otherwise known as Juguuf?

24 A. Yes, there were.

25 Q. And did you conduct an interview of Mohamud Salad Ali on

—K. Coughlin (Rebuttal) - Direct—

1 February 26, 2011, on the Enterprise?

2 A. Yes, I did.

3 Q. And, Agent Coughlin, how did you conduct that interview?

4 Was it through use of a translator?

5 A. Yes.

6 Q. And how was that accomplished, sir?

7 A. It was myself, and I believe it was Special Agent Rob
8 Henley at the time, and we used a translator to ask the
9 questions. And through the translator, who was an FBI Somali
10 linguist, he would give Juguuf's answers back to us, and then
11 I would write down the notes of exactly, you know, what was
12 said -- summaries of what was said.

13 Q. And from February on did you conduct some additional
14 interviews of Mohamud Salad Ali after he had pled guilty to
15 piracy and hostage-taking resulting in death?

16 A. Yes, I did.

17 Q. And was the same manner used with the interpreter or
18 translator and then you jotting down notes after the
19 responses were given?

20 A. Exactly. I would ask the question, the interpreter would
21 interpret it for Mr. Juguuf, Mr. Juguuf would then respond
22 through the interpreter, and then I would write down the
23 responses.

24 Q. All right. Let's go back to February 26.

25 In the course of that interview did there appear to

—K. Coughlin (Rebuttal) - Direct—

1 be any difficulty with Mohamud Salad Ali understanding your
2 questions?

3 A. No, not at all.

4 Q. All right. And did you talk to Mohamud Salad Ali about
5 the defendant, Mr. Shibin?

6 A. Yes.

7 Q. And did you ask him whether he had had contact with
8 Shibin before going out to obtain the Quest?

9 A. Yes, I did.

10 Q. And what did he tell you about any contact he had with
11 Shibin after he had received a ransom for the German boat?

12 A. During that interview he said that after Mr. Shibin had
13 received his portion of the ransom from the German hijacking
14 he said he spoke to Mr. Shibin and said that -- that they
15 were going to sea and that he would call him when they had
16 prey, and --

17 Q. Did he describe what "prey" was?

18 A. He did, because we asked specifically because he used the
19 specific word "prey," and he said, you know, when him and his
20 friends would hijack a vessel that he wanted Shibin to be
21 their interpreter when they brought a ship back to Somalia,
22 and he said that he had had that conversation with
23 Mr. Shibin.

24 Q. All right. Did you conduct another interview of Mohamud
25 Salad Ali on May 24th, 2011, after he had pled guilty?

—K. Coughlin (Rebuttal) - Direct—

1 A. Yes, I did.

2 Q. And where was that interview, sir?

3 A. That interview was here in Norfolk, Virginia.

4 Q. All right. And an interpreter was present as well?

5 A. Yes.

6 Q. Again, did you have conversations with Mohamud Salad Ali
7 about Mohamud Salad Ali going to sea and whether he discussed
8 that with Mr. Shibin beforehand?

9 A. Yes, I did.

10 Q. And what did he tell you about that?

11 A. He had said that he had informed Mr. Shibin that he was
12 going to sea to hijack a vessel. He had said that
13 Mr. Shibin -- he told Mr. Shibin that he wanted him to be
14 their negotiator and that Shibin responded that he was ready
15 to do the job.

16 Q. Now, was this discussion over a number of matters over a
17 period of time, Agent Coughlin?

18 A. Yes. We went into a bit more detail about, you know,
19 what was specifically said as well.

20 Q. All right. And did you drill down into more of the
21 specifics of the conversation between Shibin and Mohamud
22 Salad Ali prior to Mohamud Salad Ali going to sea?

23 A. Yes.

24 Q. And what did he say that the defendant said? What did
25 Mohamud Salad Ali say that the defendant said?

—K. Coughlin (Rebuttal) - Direct—

1 A. He had said when he -- in this particular interview he
2 had said that Mr. Shibin had -- when asked -- he wasn't
3 specifically sure what exactly Mr. Shibin's response was, but
4 that Mr. Shibin did not say no and essentially did not
5 decline, and that he was confident that Mr. Shibin had agreed
6 and would -- when he called him with the ship would be their
7 negotiator.

8 Q. Now, Agent Coughlin, was this later on in the interview
9 after Shibin had first said he was ready to do the job?

10 A. Yes.

11 Q. Did you again talk to Mohamud Salad Ali on June 7th,
12 2011?

13 A. Yes, I did.

14 Q. And where was that, sir?

15 A. Again, I believe that was in Norfolk, Virginia.

16 Q. After Mohamud Salad Ali had pled guilty?

17 A. Yes.

18 Q. And did you again talk to him about whether he talked to
19 Shibin prior to going to sea to hijack the Quest?

20 A. Yes, I did.

21 Q. And what did he tell you about his conversation with
22 Shibin on that date, June 7th, 2011?

23 A. He had mentioned that Shibin was, essentially, ready to
24 be their negotiator. He said that he had informed Mr. Shibin
25 that they had -- essentially, he had agreed to be it when

—K. Coughlin (Rebuttal) - Cross—

1 asked. Specifically, he had said that Mr. Shibin had not --
2 never said he wasn't interested, never said that he didn't
3 have any intent to be negotiator.

4 Q. So how did Mohamud Salad Ali take that, that Shibin
5 didn't decline?

6 A. He took that to mean that he was accepting the job that,
7 essentially, Mr. Juguuf had offered him, which was to be
8 their negotiator when they got a ship.

9 Q. But in all three of these interviews from February 26,
10 2011, May 24, 2011, and June 7th, 2011, did Mohamud Salad Ali
11 indicate that he had talked to Shibin about being the
12 translator before Mohamud Salad Ali went to sea with the
13 other pirates?

14 A. Yes, he did.

15 MR. SAMUELS: Your Honor, may I have just one
16 moment?

17 (There was a pause in the proceedings.)

18 MR. SAMUELS: Thank you, Your Honor. I have nothing
19 further.

20 CROSS-EXAMINATION

21 BY MR. BROCCOLETTI:

22 Q. Do you speak Somalian?

23 A. I do not.

24 Q. So you were relying upon what the interpreter was telling
25 you.

—K. Coughlin (Rebuttal) - Cross—

1 A. Yes.

2 Q. Did record this in any way?

3 A. If you mean electronically, no. I recorded it by writing
4 down my notes of what was interpreted to me through the
5 interpreter, and then those notes were then made into an
6 FD 302, which essentially is a summary of those notes.

7 Q. And when you took down the notes did you then reaffirm
8 those notes through the interpreter to Mohamud Salad Ali?

9 A. No, we did not. We went back over some of these sections
10 a couple times during the same interview, though.

11 Q. You keep using the words that Juguuf said that Shibin
12 would be the negotiator. You've used that several times
13 today in your testimony.

14 A. Yes.

15 Q. When you look at your 302s the word "negotiator" doesn't
16 appear there. It actually says "translator," doesn't it?

17 A. If that's what the 302 said, then, yes. Translator,
18 negotiator --

19 Q. Is it the same thing?

20 A. In this circumstance, the way that Mr. Juguuf had
21 described previously that he defined -- what he defined as a
22 negotiator, you know, translator, essentially they were the
23 same thing.

24 In one term he used the term
25 translator/lawyer/negotiator in the same sentence as

—K. Coughlin (Rebuttal) - Cross—

1 describing what it is that Mr. Shibin did.

2 Q. Which doesn't that define the vagaries of the Somalian
3 language; that it's susceptible to different interpretations?

4 A. I don't believe so. My understanding of a
5 lawyer/translator/negotiator is all very similar jobs, which
6 was to negotiate the ransom demand.

7 Q. But one word translated into three different meanings,
8 lawyer, negotiator or translator, correct?

9 A. Yes.

10 Q. So it depends upon what meaning you want to subscribe to.

11 A. I mean, I guess -- I view myself those three words as
12 having similar meanings, but I understand your point.

13 Q. Well, you're the FBI agent in charge of the case.

14 THE COURT: Stop. That's enough. You made your
15 point.

16 BY MR. BROCCOLETTI:

17 Q. And isn't it true that you recognize, through your work
18 with the Somali language, that there are vagaries and words
19 that are susceptible to many different interpretations?

20 A. You'd have to give me an example.

21 Q. "Uncle."

22 A. Yes.

23 Q. All right. To us an uncle is somebody that's related to
24 you, right?

25 A. I mean, I -- again, Mr. -- he also said that he was a

—K. Coughlin (Rebuttal) - Cross—

1 family member, not just an uncle. So he said he was related
2 to him. He said they were part of the same family. So
3 that's what he said to us.

4 Q. And you understand that "uncle" in the Somali culture is
5 someone that's an elder, someone you're showing respect to;
6 not necessarily a family member.

7 A. Not necessarily, but it could be.

8 Q. All right. Now, with respect to the conversations that
9 you had with Mr. Ali, I count five, if you will, between the
10 24th of May and the 7th of June -- you correct me if I'm
11 wrong -- in which you talked about this
12 translator/negotiator/interpreter status.

13 A. Okay.

14 Q. All right. And would it be fair to say that each time
15 you asked Salad Ali that it changed?

16 A. There were variations on -- each time.

17 Q. All right. At some points he was sure that he was to be
18 the negotiator/translator/interpreter, right?

19 A. I'm not going to -- I mean, I can tell you exactly what
20 he said, but I don't feel comfortable giving a summary of it
21 without looking at --

22 Q. Well, sometimes -- like, for example, Mr. Samuels said in
23 the conversation on the 24th of May that Ali told you that
24 Shibin said he was ready to do the job.

25 A. Yes.

—K. Coughlin (Rebuttal) - Cross—

1 Q. In that same paragraph in that same conversation Ali says
2 he doesn't remember what Shibin said in response.

3 A. Yes.

4 Q. And then later on in the interview --

5 A. I think he said he didn't remember specifically, but
6 essentially, yes, similar.

7 Q. All right. And then later on in the same interview he
8 said he didn't tell Shibin that at that time.

9 A. I don't recall that. I'd have to see the 302 to see
10 specifically what you're referring to.

11 Q. And then --

12 THE COURT: Show him the -- show it to him.

13 MR. BROCCOLETTI: Yes, sir.

14 BY MR. BROCCOLETTI:

15 Q. I've highlighted it for easy reference for you.

16 (There was a pause in the proceedings.)

17 THE WITNESS: Well, I mean -- I mean, can I -- I
18 think, to correct you, he says, "Juguuf did not remember
19 exactly what Shibin said in response."

20 BY MR. BROCCOLETTI:

21 Q. Right.

22 A. Yes.

23 Q. Okay.

24 A. But then he essentially gave a brief summary of what
25 he -- what his take of the conversation was.

—K. Coughlin (Rebuttal) - Cross—

1 Q. Right.

2 THE COURT: What's -- read the summary.

3 THE WITNESS: Yes, sir. "Juguuf does not remember
4 exactly what Shibin said in response to" -- "Juguuf again
5 told Shibin that he intended to use him as the translator
6 when they hijacked the vessel. Juguuf does not remember
7 exactly what Shibin said in response to this."

8 THE COURT REPORTER: Can you slow down when you
9 read, sir?

10 THE WITNESS: I'm sorry.

11 "Juguuf does not remember exactly what Shibin said
12 in response to this. Shibin did not say 'No' and did not say
13 'Yes,' but from that conversation Juguuf understood that
14 Shibin would not decline or say 'No' when Juguuf called him."

15 MR. BROCCOLETTI: May I retrieve that, Your Honor?

16 THE COURT: Give it back to Mr. Broccoletti.

17 BY MR. BROCCOLETTI:

18 Q. And later in that same paragraph Juguuf again told you
19 that Shibin intended -- he intended to use Shibin as a
20 translator, but he doesn't remember what Shibin said in
21 response.

22 A. The specifics, yes. He just -- all he said was that he
23 was confident that Shibin had agreed, but he didn't remember
24 exactly what he said.

25 Q. And because he did not decline he took it to mean he

—K. Coughlin (Rebuttal) - Redirect—

1 accepted.

2 A. Yes.

3 Q. And that's another part of the statement that he gave you
4 on the 7th of June.

5 A. Yes.

6 Q. All right. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. SAMUELS:

9 Q. Agent Coughlin, Mr. Broccoletti asked you about the
10 various words that are used, "negotiator," "interpreter,"
11 "translator."

12 Do you recall in an interview with Mohamud Salad Ali
13 on February 26, 2011, where Salad Ali described what he meant
14 by "interpreter"?

15 A. Yes.

16 Q. And do you recall what he said an interpreter was? What
17 did that role perform?

18 A. He said that an interpreter is someone that -- once they
19 hijack a vessel, an interpreter is someone that assesses the
20 value of the boat and then determines what it's worth, the
21 value of it, and then does the negotiation with the owners or
22 the companies of whoever owns the boat in order to get a
23 ransom payment.

24 Q. Okay. So in that interview -- and you conducted multiple
25 interviews with Mohamud Salad Ali -- he had defined the terms

1 that you were using for the role of this
2 interpreter/negotiator/translator.

3 A. Yes.

4 Q. Thank you, Agent Coughlin.

5 THE COURT: Anything else?

6 MR. SAMUELS: Not from the government, Your Honor.

7 THE COURT: You're instructed not to discuss your
8 testimony with anyone until this matter is complete.

9 You may step down, Mr. Coughlin.

10 THE WITNESS: Thank you, Your Honor.

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14 CERTIFICATION

15

16 I certify that the foregoing is a correct transcript
17 of an excerpt from the record of proceedings in the
18 above-entitled matter.

19

20

21 s/s

22 Heidi L. Jeffreys

23

24 August 3, 2012

25 Date

Heidi L. Jeffreys, Official Court Reporter